

BOARD OF APPEALS CASE NO. 5004

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BEFORE THE

APPLICANTS: Kenneth & Lisa Brown

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ZONING HEARING EXAMINER

**REQUEST: Variance to allow an addition
within the required rear yard setback;
421 Larkspur Drive, Joppa**

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OF HARFORD COUNTY

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Hearing Advertised

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Aegis: 12/29/99 & 1/5/00

HEARING DATE: February 23, 2000

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Record: 12/31/99 & 1/7/00

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ZONING HEARING EXAMINER'S DECISION

The Applicants, Kenneth and Lisa Brown, are requesting a variance to Ordinance 6 (1957 Zoning Ordinance), Section 10.05 of the Harford County Zoning Regulations, to construct an addition within the required 40 foot rear yard setback in an R3 Urban Residential District/Community Development Project.

The subject property is located at 421 Larkspur Drive, Joppa in the First Election District. The parcel is more specifically identified as Parcel No. 158, in Grid 1C, on Tax Map 69. The parcel contains .20 acres, more or less, all of which is zoned R3/CDP.

The Applicant, Mr. Kenneth Brown, appeared and testified that he is requesting a variance to build a two-story, 14 foot by 16 foot addition off the rear of his house to accommodate his growing family. Mr. Brown stated that, in order to construct the addition, he needs a ten foot variance which would reduce the required 40 foot setback to 30 feet. The Applicant testified that the variance is necessary because of the unique placement of the house on the property. Due to a curve in the road in the front of the house, the house was set at an angle on the property behind the minimum setback line. As a result, the Applicant stated that he cannot build the proposed addition without approval of the requested variance. In addition, the Applicant stated that he did not believe that there would be any negative impact on the adjoining properties if the variance were granted.

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Mr. Roscoe C. Ails, 426 Larkspur Drive, Joppa, appeared and testified in support of the Applicants' request. Mr. Ails stated that he lives directly across the street from the subject property and he believes that there would be no negative impact or detrimental effect on his or adjoining properties if the variance were approved. No witnesses appeared in opposition to the request.

Mr. Anthony McClune, Manager, Division of Land Use Management for the Department of Planning and Zoning, appeared and testified that the property is unique based upon the placement of the house on the property at an angle to the road and behind the minimum front setback line. According to Mr. McClune, if the house had been placed at the front setback line, the variance would not be necessary. The property's shape is somewhat curved, which further reduces the usable area outside the required rear setback. There is a wooded area to the rear of the property, which Mr. McClune noted would buffer the addition from adjacent properties. Mr. McClune further testified that there would not appear to be any adverse impact to adjoining properties, nor would the approval of the variance materially impair the purpose of the Code or the public interest. The Department recommended approval of the request.

CONCLUSION:

The Applicants are requesting a variance to Ordinance 6 (1957 Zoning Ordinance), Section 10.05 of the Harford County Zoning Regulations, to construct a 14 by 16 foot addition within the required 40 foot rear yard setback. The Applicant is seeking a ten foot variance, which would reduce the rear yard setback to 30 feet.

The uncontradicted testimony of the Applicant and the Department of Planning and Zoning is that the subject parcel is unique due to its somewhat curved shape and the placement of the dwelling on the property at an angle, well back from the minimum front setback lines. Both witnesses, as well as a neighbor who resides across the street, testified that there would be no substantial detriment to the adjoining properties, particularly because of a wooded area to the rear of the lot which would serve as a buffer between the Applicants' dwelling and other dwellings to the rear of the property. There was no evidence that approval of the variance would materially impair the purpose of the Code or the public interest.

It is the finding of the Hearing Examiner that the subject property is unique for the

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reasons stated by the Applicant and the Department of Planning and Zoning in their testimony and, further, that approval of the variance will not be substantially detrimental to adjacent properties or materially impair the purpose of the Code.

Therefore, it is the recommendation of the Hearing Examiner that the requested variance to reduce the rear yard setback to 30 feet be approved, subject to the Applicants obtaining all necessary permits and inspections.

Date MARCH 15, 2000

**Valerie H. Twanmoh
Zoning Hearing Examiner**